

REMARKS

This paper is filed in response to the Non-final Office Action mailed on June 23, 2006. In that action, claims 1-5, 12, 14-19, and 26 were rejected under 35 U.S.C. 103(a) as obvious over Kuhajda, et al. (U.S. 2006/0247302), with Kuhajda constituting prior art under 35 U.S.C. 102(e). Applicants respectfully traverse because this rejection is not proper under the provisions of 35 U.S.C. 103(c).

Under 35 U.S.C. 103(c), “[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.” In the instant case, both Kuhajda and the instant application were subject to an obligation of assignment to the same entity (Johns Hopkins University) by the inventors at the time the inventions were made. Indeed, they were both assigned to this entity, as evident in the recorded assignments at Reel/Frame Nos. 015795/0618 and 017167/0911, respectively. Accordingly, and for this reason, the instant rejection under 35 U.S.C. 103(a) is disqualified, and Applicants respectfully request withdrawal of the instant rejection and allowance of the claims.

CONCLUSION

Applicants respectfully submit that this Response addresses the issues of the Non-Final Office Action of June 23, 2009 in full, and the present claims are in condition for allowance. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone Applicants' attorney at (215) 299-2772 to discuss any additional rejections.

The USPTO is authorized to charge Deposit Account No. 50-1943 for any charges in connection with this matter.

Respectfully submitted,
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